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C O N F I D E N T I A L SECTION 01 OF 02 HARARE 001025

SIPDIS

NSC FOR SENIOR AFRICA DIRECTOR J. FRAZER
LONDON FOR C. GURNEY
PARIS FOR C. NEARY
NAIROBI FOR T. PFLAUMER

E.O. 12958: DECL: 12/31/2013

TAGS: [PGOV](#) [PHUM](#) [ZI](#)

SUBJECT: POLICE SEIZE DEFENSE DOCUMENTS, STATE SUPPRESSES
EVIDENCE IN THE TSVANGIRAI TREASON TRIAL WEEK TEN

REF: A. HARARE 946

[B](#). HARARE 568

[C](#). HARARE 484

[D](#). HARARE 360

[E](#). HARARE 313

[F](#). HARARE 250

Classified By: Political Officer Audu Besmer for reasons 1.5 b/d

Summary:

[1](#). (C) In the tenth week of the treason trial of MDC President Morgan Tsvangirai, police officers seized a draft copy of Tsvangirai's opening testimony from an MDC messenger sent to deliver it to Tsvangirai. The State presented a certificate signed by the Minister of State and National Security Nicholas Goche, exempting the head of the Central Intelligence Organization, retired Brigadier Happyton Bonyongwe from answering questions on payments made to Ari Ben Menashe. Irregularities such as these may in the end aid the defense in its application for dismissal. End Summary.

Police Seize Defense Documents

[2](#). (U) The treason trial of MDC President Morgan Tsvangirai, MDC Secretary General Welshman Ncube, and MDC Shadow Minister of Agriculture Renson Gasela continued into its tenth week on May 19. On that day police officers at the High Court entrance seized a draft copy of Tsvangirai's opening testimony from an MDC messenger who was delivering the document to Tsvangirai from the defense lawyers' offices. It was returned after defense attorneys intervened, but the defense team believes the police made a copy, which if true, they fear would severely damage their case. The defense team filed a complaint with the Deputy Attorney General.

CIO Witness Reveals Lies

[3](#). (U) Only one witness took the stand this week, the head of the Central Intelligence Organization, retired Brigadier Happyton Bonyongwe. Bonyongwe admitted that he did not hear Morgan Tsvangirai say he wanted to kill, murder or assassinate Mugabe. He also stated that Ben Menashe lied in a press article concerning the content of the audiotape. Despite this, Bonyongwe said he believed Menashe's account because of undisclosed information his office received from other unidentified sources.

State Suppresses Evidence

[4](#). (U) On May 21, defense attorney George Bizos asked Bonyongwe to produce vouchers, which Bonyongwe's office used to pay Menashe. During cross-examination, Ari Ben Menashe had said the Central Intelligence Organization had destroyed vouchers that provided proof of payments the GOZ had made to him. Bonyongwe confirmed that the vouchers had been destroyed. Bizos asked Bonyongwe, who had made the decision to destroy the vouchers, whether or not he had been party to the destruction. Bonyongwe refused to answer.

[5](#). (U) On May 22, the prosecution produced a certificate signed by Minister of State and National Security, Nicholas Goche saying that it would not be appropriate for Bonyongwe to answer questions about the vouchers for reasons of national security. The prosecution argued that that information was privileged and told Garwe that Bonyongwe had prepared an affidavit stating reasons why this information should not be divulged in open court or in camera.

[6](#). (U) Bizos argued the information was of public interest and had already been referred to previously in the trial. Bizos said that Garwe could not make a judgment on information, which had not been shown to the defense team. Bizos also noted that it was bizarre that the date of signature on the certificate was the May 20, yet the questions had only been posed to Bonyongwe on the May 21.

The Deputy Attorney General was quick to state that the date was a typing error. Justice Garwe said he would reserve judgment until May 28.

17. (U) Attendance in court this week was very low.

Comment:

18. (C) Continued irregularities like the theft of the Tsvangirai's draft testimony, and the intervention by

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Minister Goche to suppress evidence point to the difficulties the defense faces in simply airing relevant evidence, and preparing their clients for upcoming phases of the trial. These irregularities are likely to be a double-edged sword for the GOZ - their flagrance bolsters the defense argument that the trial is unfair. We still expect the defense team to move for dismissal in the coming weeks. End Comment.

WHITEHEAD